

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 22nd day of April, two thousand sixteen.

PRESENT:

DENNIS JACOBS,
GUIDO CALABRESI,
RAYMOND J. LOHIER, JR.,
Circuit Judges.

AI MIAN MA,
Petitioner,

v.

LORETTA E. LYNCH, UNITED STATES
ATTORNEY GENERAL,
Respondent.

15-401
NAC

FOR PETITIONER: Gary J. Yerman, New York, New York.

FOR RESPONDENT: Benjamin C. Mizer, Principal Deputy Assistant Attorney General; Jesse M. Bless, Senior Litigation Counsel;

1 Lance L. Jolley, Trial Attorney,
2 Office of Immigration Litigation,
3 United States Department of Justice,
4 Washington, D.C.
5

6 UPON DUE CONSIDERATION of this petition for review of a
7 Board of Immigration Appeals ("BIA") decision, it is hereby
8 ORDERED, ADJUDGED, AND DECREED that the petition for review is
9 DENIED.

10 Petitioner Ai Mian Ma, a native and citizen of the People's
11 Republic of China, seeks review of a January 26, 2015, decision
12 of the BIA affirming a March 6, 2013, decision of an Immigration
13 Judge ("IJ") denying Ma's application for asylum, withholding
14 of removal, and relief under the Convention Against Torture
15 ("CAT"). *In re Ai Mian Ma*, No. A200 933 655 (B.I.A. Jan. 26,
16 2015), *aff'g* No. A200 933 655 (Immig. Ct. N.Y. City Mar. 6,
17 2013). We assume the parties' familiarity with the underlying
18 facts and procedural history in this case.

19 Under the circumstances of this case, we have reviewed both
20 the IJ's and the BIA's opinions "for the sake of completeness."
21 *Wangchuck v. Dep't of Homeland Sec.*, 448 F.3d 524, 528 (2d Cir.
22 2006). The applicable standards of review are well
23 established. See 8 U.S.C. § 1252(b)(4)(B); see also *Xiu Xia*
24 *Lin v. Mukasey*, 534 F.3d 162, 165-66 (2d Cir. 2008). The agency
25 may, "[c]onsidering the totality of the circumstances," base

1 a credibility finding on inconsistencies in an asylum
2 applicant's statements and other record evidence "without
3 regard to whether" they go "to the heart of the applicant's
4 claim." 8 U.S.C. § 1158(b)(1)(B)(iii); *Xiu Xia Lin*, 534 F.3d
5 at 163-64.

6 In applying for asylum and related relief, Ma asserted that
7 Chinese officials forced her to have an abortion under China's
8 family planning policy, and later detained and beat her for
9 providing assistance at an unregistered church gathering held
10 in her sister's home. Substantial evidence supports the
11 agency's determination that Ma was not credible and failed to
12 adequately corroborate her claims.

13 The agency reasonably relied on discrepancies between Ma's
14 testimony and her written statement regarding whether she was
15 using birth control when she became pregnant in violation of
16 China's family planning policy and whether officials
17 immediately aborted her pregnancy or permitted her to return
18 home for several days before forcibly taking her to the hospital
19 for an abortion. See *Xiu Xia Lin*, 534 F.3d at 165-67. Ma's
20 explanations for these discrepancies were not compelling. See
21 *Majidi v. Gonzales*, 430 F.3d 77, 80 (2d Cir. 2005). Asylum
22 applicants are not required to list every incident or provide

1 every detail in their asylum applications (such as the details
2 surrounding when Ma was taken for her alleged forced abortion).
3 See *Pavlova v. INS*, 441 F.3d 82, 90 (2d Cir. 2006). However,
4 Ma's explanation that she merely omitted detail was not
5 compelling because her application included a detailed
6 statement that devoted paragraphs to matters of less
7 significance. See *Majidi*, 430 F.3d at 80.

8 Having questioned Ma's credibility, the agency reasonably
9 relied further on her failure to submit corroborating evidence
10 sufficient to rehabilitate her testimony or independently
11 satisfy her burden of proof. See *Biao Yang v. Gonzales*, 496
12 F.3d 268, 273 (2d Cir. 2007); *Diallo v. INS*, 232 F.3d 279, 285
13 (2d Cir. 2000). The agency reasonably declined to credit
14 letters from Ma's sisters because the letters were unsworn and
15 prepared for litigation, and the authors were not available for
16 cross-examination. See *Y.C. v. Holder*, 741 F.3d 324, 332, 334
17 (2d Cir. 2013). Regardless, those letters did not corroborate
18 Ma's claim that she was forced to have an abortion or her
19 assertion that officials beat her.

20 The agency also did not err in declining to credit Ma's
21 medical certificates as unauthenticated. See *Xiao Ji Chen v.*
22 *U.S. Dep't of Justice*, 471 F.3d 315, 341-42 (2d Cir. 2006); *In*

1 *re H-L-H- & Z-Y-Z-*, 25 I. & N. Dec. 209, 215-16 & n.5 (B.I.A.
2 2010), *overruled on other grounds by Hui Lin Huang v. Holder*,
3 677 F.3d 130, 133-38 (2d Cir. 2012). Moreover, the
4 hand-written abortion certificate Ma submitted was issued seven
5 years after the alleged abortion, and the handwritten medical
6 certificate issued after her alleged beating was not
7 accompanied by any medical examination records and did not
8 indicate that her injuries were sustained as a result of a
9 physical assault.

10 Ultimately, substantial evidence supports the agency's
11 findings that Ma's testimony lacked credibility and that her
12 evidence was insufficient to rehabilitate her testimony or
13 independently satisfy her burden of proof. *See Xiu Xia Lin*,
14 534 F.3d at 165-66; *Diallo*, 232 F.3d at 285. Those findings
15 are dispositive of asylum, withholding of removal, and CAT
16 relief because, other than the presumption of a well-founded
17 fear of persecution that arises from demonstrating past
18 persecution, Ma does not assert an independent basis to fear
19 future harm in China. *See* 8 U.S.C. §§ 1158(b)(1)(B),
20 1231(b)(3)(C); 8 C.F.R. §§ 1208.13(b), 1208.16(b)-(c).

21 For the foregoing reasons, the petition for review is
22 DENIED. As we have completed our review, any stay of removal

1 that the Court previously granted in this petition is VACATED,
2 and any pending motion for a stay of removal in this petition
3 is DISMISSED as moot. Any pending request for oral argument
4 in this petition is DENIED in accordance with Federal Rule of
5 Appellate Procedure 34(a)(2) and Second Circuit Local Rule
6 34.1(b).

7 FOR THE COURT:
8 Catherine O'Hagan Wolfe, Clerk